

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

INDECK KEYSTONE
ENERGY, LLC, a Delaware limited liability
company,

Plaintiff,

v.

VICTORY ENERGY
OPERATIONS, LLC, a Delaware limited
liability company,

Defendant.

: CIVIL ACTION
: No. 04-CV-325 (ERIE)
: Judge Sean J. McLaughlin

O R D E R

AND NOW, this _____ day of April, 2007, upon consideration of
Defendant's Motion for Ruling that EPTI's Conduct in Performing the Contract Could Not Be
Deemed a Waiver That Was Subject To Revocation, and the Response in Opposition thereto, it is
hereby ORDERED, DECREED and ADJUDGED that Defendant's Motion is DENIED.

BY THE COURT:

McLaughlin, J.